

CIVIL ACTION NO. 3:15-CV-00696-JAG

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re MORRIS SCHNEIDER WITTSTADT VA.,
PLLC, *et al.*,

Debtors,

Case No. 15-33370-KLP

DUSTIN JOHNSON,

Appellant,

v.

Adv. Pro. 15-03435-KLP

MORRIS SCHNEIDER WITTSTADT VA., PLLC,
et al.,

Appellees.

**BRIEF IN SUPPORT OF
JOINT MOTION FOR TEMPORARY STAY OF PROCEEDINGS**

Appellant Dustin Johnson (“Johnson”) initiated this action (“Appeal”) to appeal an order of the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (“Bankruptcy Court”) approving settlements among Morris Schneider Wittstadt, LLC (“MSW”), and MSWLAW, Inc. (“MSWLAW”) together with their affiliated Chapter 11 debtors (collectively, “Debtors”),¹ the Official Committee of Unsecured Creditors (the “Committee”) for Debtors, Mark H. Wittstadt and Gerard Wm. Wittstadt (the “Wittstadts”), ZB, N.A. d/b/a Amegy Bank, d/b/a Amegy Bank Business Credit, successor by merger to Amegy Bank National

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Morris | Schneider | Wittstadt Va., PLLC (1651), Morris | Schneider | Wittstadt, PLLC (1589), Wittstadt Title & Escrow Company, L.L.C. (3831), Morris | Schneider | Wittstadt, LLC (1589), MSWLAW, Inc. (6994), Teays Valley Trustees, LLC (9830) and York Trustee Services, LLC (8058)

Association (“Amegy Bank”), and Michael Moecker in his individual capacity and in his capacity as assignee for Butler & Hosch, P.A. The Appeal has been fully briefed, but no argument has been scheduled and no ruling has been issued by this Court.

In a good faith effort to resolve all claims, controversies and issues in this Appeal, along with a variety of related claims, controversies, and issues between and among the parties to this Appeal (and certain other parties involved in related litigation in the Bankruptcy Court and the United States District Court for the Northern District of Georgia), Johnson, MSW, MSWLAW, the Wittstadts, and Endurance American Specialty Insurance Company, have entered into a Settlement Agreement and Release (“Settlement Agreement”). Because it impacts the estates of the Debtors, the Settlement Agreement does not become effective until the Bankruptcy Court enters an Order, which becomes final and non-appealable, approving the Settlement Agreement. Additionally, Johnson and Amegy Bank have entered into a separate Settlement Agreement and Release, (the “Amegy Settlement”) resolving this appeal as between Amegy and Johnson, which is conditioned upon entry of the Bankruptcy Court’s Order approving the Settlement Agreement, and its becoming final and non-appealable. On or before May 17, 2016, Debtors will seek approval of the Settlement Agreement, either as part of a plan under Chapter 11 or as a standalone motion to approve the settlement pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure. Upon approval, the parties’ obligations under the Settlement Agreement and the Amegy Settlement should be substantially or fully performed within ten business days following the order approving the Settlement Agreement.

Thus, entry of a temporary stay order is appropriate to enable the parties to implement the terms of their agreed-upon global settlement, as memorialized by the Settlement Agreement and the Amegy Settlement. The Committee has consented to the temporary stay, as evidenced by the

endorsement of its counsel on the consent order. For the foregoing reasons, the Court should grant the parties' Joint Motion and should enter an Order temporarily staying this action on the terms stated in the consent Order attached to the Joint Motion as Exhibit A or on such other terms as the Court deems appropriate and effectual.

DUSTIN JOHNSON

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**ZB, N.A. d/b/a AMEGY BANK, d/b/a
AMEGY BANK BUSINESS CREDIT,
successor by merger to AMEGY BANK
NATIONAL ASSOCIATION**

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CERTIFICATE OF SERVICE

I certify that on May 6, 2016, a copy of this brief was filed electronically using the Court's CM/ECF system, which will send notice of electronic filing to all parties receiving notices via CM/ECF, including counsel for the Appellant.

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